

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

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DERRICK L. SMITH,

Plaintiff,

v.

Case No. 24-C-1136

JON NOBEL, et al.,

Defendants.

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**DISMISSAL ORDER**

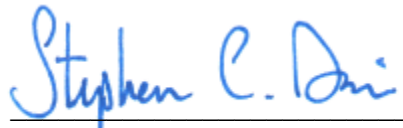
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Plaintiff Derrick L. Smith, a Wisconsin state prisoner who is representing himself, filed this 42 U.S.C. §1983 lawsuit, along with his prisoner trust fund account statement and request to proceed without prepayment of the full civil case filing fee (*in forma pauperis*). Dkt. Nos. 1, 5, & 6. On September 25, 2024, the Court ordered Plaintiff to pay an initial partial filing fee of \$1.58 within thirty days or advise the Court in writing why he was unable to submit the assessed amount. Dkt. No. 7. The deadline has passed and Plaintiff did not pay. Instead, he claims that he is unable to pay because correctional staff are preventing him from using his release account. Dkt. Nos. 9-10. Review of the docket shows that Plaintiff's funds were not sent because his "offender ID" was not verified on the DOC form he submitted *and* he was attempting to use legal loans without approval. Dkt. No. 10-1. Plaintiff was directed to complete the correct DOC form to use his release account (not his legal loans) and to resubmit the request to the business office with a stamped and addressed envelope, which he did not do. *See id.* Instead, it appears that Plaintiff kept attempting to improperly use legal loans he did not have. *Id.* at 8. Plaintiff is an experienced litigator who has filed 12 previous cases in this district

and knows how to pay for a lawsuit. While he “apologies in advance for any and all unintentional mistakes,” *see* Dkt. No. 10 at 1, he makes no efforts to correct the clearly identified error and he simply asks the Court to proceed without payment. The Court will not allow this particularly because he is not entitled to proceed *in forma pauperis* anyway due to the three strikes he has already acquired under §1915(g) for filing lawsuits that were dismissed as frivolous, malicious, or for failure to state a claim upon which relief can be granted. Therefore, the Court will deny the motion for leave to proceed without prepaying the filing fee and will dismiss this case based on failure to pay the filing fee. Plaintiff is advised that, should he choose to refile this case at a later time, he should be prepared to pay the civil case filing fee in full.

**IT IS THEREFORE ORDERED** that Plaintiff’s motion for leave to proceed without prepaying the filing fee (Dkt. No. 5) is **DENIED** based on his failure to pay the filing fee, and this case is **DISMISSED without prejudice** based on his failure to pay the filing fee. The Clerk shall enter judgment accordingly.

Dated in Milwaukee, Wisconsin this 2nd day of December, 2024.

  
STEPHEN C. DRIES  
United States Magistrate Judge